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FOOD DISTRIBUTION ADMINISTRATION
UNITED STATES DEPARTMENT OF AGRICULTURE

[FDO 39]

PART 1460—FATS AND OILS

RESTRICTIONS ON USE, PROCESSING, CONSUMPTION, AND DELIVERY OF TUNG OIL

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to assure an adequate supply and efficient distribution of tung oil to meet war and essential civilian needs, *It is hereby ordered*, As follows:

§ 1460.5 *Delivery, use and distribution of tung oil; restricted—(a) Definitions.* When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) The term "tung oil" means that oil obtained from the tung nut, commonly known as tung oil or china wood oil, whether crude, raw, filtered, or refined.

(2) The term "person" means any individual, partnership, corporation, association, or other business entity.

(3) The term "producer" means any person engaged in the production of tung oil and includes any person who has tung oil produced for him pursuant to toll agreement.

(4) The term "distributor" means any person who has purchased or purchases tung oil for purposes of resale.

(5) The term "Director" means the Director of Food Distribution, United States Department of Agriculture, or any employee of the United States Department of Agriculture designated by such Director.

(b) *Restrictions on delivery, use, and processing.* (1) No person shall deliver, accept delivery of, use, or process tung oil except as specifically authorized or directed by the Director.

(2) Authorization or directions with respect to deliveries, use, and processing in each calendar month will, so far as practicable, be issued by the Director prior to the commencement of such month, but the Director may at any time at his discretion, and notwithstanding the provisions of paragraphs (c) and (d) hereof, issue directions with respect to deliveries to be made or accepted, or with respect to the use or uses which may or may not be made of tung oil to be delivered or then on hand. He may also at any time issue directions to the producer with respect to the grade of tung oil which he may manufacture.

(3) Each person specifically authorized to accept delivery of tung oil shall use such oil for the purposes authorized and only for such purposes except as otherwise specifically directed.

(4) Tung oil allocated for inventories shall not be used or processed except as specifically authorized or directed by the Director. Tung oil allocated:

(i) To fill a specified order, or

(ii) To be used for a specified end use during a specified month.

shall revert to inventories where and to the extent that the oil so allocated is not used for the specific order or the specific end use.

(c) *Exceptions to requirements for specific authorization.* Notwithstanding the provisions of paragraph (b) (1) hereof, specific authorizations by the Director shall not be required for:

(1) Acceptance of delivery, use, or processing by any person in any one calendar month of 40 lbs., or less, of tung oil in the aggregate; and

(2) The delivery of tung oil by any producer or distributor to any person who shall have filed with him an authorization signed by the Director authorizing such person to accept delivery of tung oil in the quantity and in the period in which delivery is made.

(d) *Exceptions for small orders.* Notwithstanding the provisions of paragraph (b) (1) hereof, specific authorization by the Director shall not be required for deliveries set forth in this paragraph, but no producer shall make deliveries described in this paragraph without a specific authorization by the Director to make deliveries of a specific maximum quantity under this paragraph each month. Deliveries of quantities in excess of this maximum may not be made without further authorization by the Director. The application for authorization to make such delivery shall specify the maximum quantity requested. The provisions of this paragraph apply to the delivery of tung oil by any producer or distributor to any person who shall have filed with him a certificate in substantially the following form:

The undersigned purchaser hereby certifies to the United States Department of Agriculture, Food Distribution Administration, and to his supplier that the tung oil hereby ordered for delivery in _____, 1943, does not, taken with all other tung oil delivered or to be delivered in such month,

exceed 40 lbs., the amount which he is entitled to receive under paragraph (c) (1) of Food Distribution Order No. 39.

Name of Purchaser	
-----	-----
By	-----
Date	Authorized Official

Title	

Such certificate shall be signed by an authorized official of the purchaser. The receipt of such certificate shall not authorize the delivery of tung oil by a producer or distributor where he knows or has reason to believe the same to be false, but in the absence of such knowledge or belief, he may rely on the certificate.

(e) *Applications for delivery, use, or processing.* (1) Each person requiring authorization to accept delivery of, use, or process, tung oil during any calendar month, beginning with April 1943 (including a person seeking authorization to accept the delivery of tung oil for resale), shall file application therefor on or before the 15th day of the month preceding the month for which authorization for delivery, use, or processing is requested. Application for acceptance of delivery, use or processing in April 1943 shall be filed as many days as possible in advance of the requested delivery, use, or processing. In any case, such application shall be made on War Production Board Form PD-600, or such other form or forms as may be prescribed by the Director. Forms may be obtained at local field offices of the War Production Board or the Food Distribution Administration, United States Department of Agriculture. Five copies shall be prepared, four of which shall be forwarded to the Director of Food Distribution, United States Department of Agriculture, Washington, D. C., Ref: FD-39, the fifth to be retained for applicant's files. For the purposes of this order, if War Production Board Form PD-600 is used, it shall be completed in the manner prescribed therein, subject to the following special instructions:

(i) In the heading, under the name of chemical, specify "tung oil"; under WPB Order No., specify "FD 39"; under unit of measure specify "pounds, dry weight"; in the heading of Table I in the blank insert the month and year for which authorization for acceptance of delivery, use or processing is sought.

(ii) In the space under "supplier with whom this order is placed" state name of usual supplier and list his shipping point. If application is for authority to use, consume, or process oil from his own inventory, leave these spaces blank.

(iii) In Columns 1, 11, and 19, indicate grade in terms of the following: crude or refined. If same grade of oil is required for more than one "primary product", or for the same "primary product" for more than one ultimate use, include quantity of grade applicable to each "primary product" or ultimate use.

(iv) In Columns 3, 20, and 22, specify your primary product in terms of the following: protective coating, core oil, electrical insulation, synthetic resins, food container linings, others (specify).

(v) In Column 4 specify ultimate use of product (as for example "airplane engine castings" as opposed to "core oil" and "bomb linings" as opposed to "protective coatings" or "synthetic resins", each of which may be made of the primary product called for in Columns 3, 20, and 22); and also specify in each case whether your customer is Army, Navy, or other Government agency, Lend-Lease, or commercial customer, and give Government specification number, if any. If the application for tung oil for resale or for inventory (as tung oil), leave Column 4 blank. In each case where the application for authorization to use or process tung oil is granted, one copy signed by the Director will be returned to the applicant; and where the application is also for authorization to accept delivery, a second copy also signed by the Director will be sent to the applicant so that applicant may furnish same to the supplier selected by him.

(2) Each producer of tung oil shall file War Production Board Form PD-601, or such other form or forms as may be prescribed by the Director, on or before the 15th day of each month, beginning with April 1943. Forms may be obtained at local field offices of the War Production Board or the Food Distribution Administration, United States Department of Agriculture. Four copies shall be prepared of which three shall be forward to the Director of Food Distribution, United States Department of Agriculture, Washington, D. C., Ref: FD-39, the fourth to be retained in applicant's file. For the purposes of this order, if War Production Board Form PD-601 is used, it shall be completed in the manner prescribed therein, subject to the following special instructions:

(i) In the heading under the name of chemical, specify "tung oil"; under WPB Order No., specify "FD-39"; under name of company, state name and mailing address; under unit of measure, specify "pounds, dry weight"; in the heading "This schedule is for deliveries to be made during the month of -----, 194--", strike out the words "to be", and insert in the blank the month preceding the month in which form is filed and also indicate year.

(ii) Insert in Column 1 the words "total small order deliveries last month", and in Column 4 specify the total quantity of tung oil delivered by applicant in such last month pursuant to paragraph (c) (1) and (d) hereof. In other respects Table I may, at the applicant's discretion, be left blank.

(iii) In Column 8 specify grades produced in terms of grades included in paragraph (e) (1) (ii) hereof.

(iv) In Column 9 show actual production during preceding month.

(v) In Column 10 show actual deliveries during preceding month.

(vi) In Column 11 show stocks as of first of preceding month.

(vii) In Column 12 show stocks as of first of current month.

(viii) Leave blank columns 13-16, inclusive.

(ix) In addition to the foregoing, each producer who is a crusher of tung nuts shall strike out the heading of Columns 15 and 16 and insert in the columns and in the margin:

(a) Quantity of tung nuts received during preceding month;

(b) Quantity of tung nuts crushed during preceding month; and

(c) Quantity of tung nuts on hand at end of preceding month.

(3) The Director may issue other and further directions with respect to preparing and filing forms.

(f) *Records and reports.* Every person subject to this order shall maintain such records for at least two years (or for such other periods of time as the Director may designate), and shall execute and file such reports upon such forms and submit such information as the Director may from time to time request or direct, and within such times as he may prescribe.

(g) *Bureau of the Budget approval.* The reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent specific record-keeping or reporting requirements by the Director will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(h) *Notification of customers.* Each supplier shall notify his regular customers as soon as possible of the requirements of this order but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(i) *Existing contracts.* The restrictions of this order concerning delivery, acceptance, use, processing and consumption of tung oil shall be observed without regard to existing contracts or any rights accrued or payments made thereunder.

(j) *Intra-company deliveries.* The prohibitions and restrictions of this order with respect to deliveries of tung oil shall apply not only to deliveries to other persons, including affiliates and subsidiaries, but also deliveries from one branch, division, or section of a single enterprise to another branch, division, or

section of the same or any other enterprise under common ownership or control.

(k) *Audits and inspections.* Every person subject to this order shall, upon request, permit inspections, at all reasonable times, of his stocks of tung oil and premises used in his business, and all of his books, records, and accounts, shall, upon request, be submitted to audit and inspection by the Director.

(l) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may petition in writing (in triplicate) for relief to the Director, setting forth all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, and such action shall be final.

(m) *Violations.* Any person who willfully violates any provisions of this order or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this order or wilfully conceals a material fact concerning a matter within the jurisdiction of any Department or agency of the United States may be prohibited from receiving or making further deliveries of any material subject to allocation; and such further action may be taken against him as the Director deems appropriate, including recommendations for prosecution under section 35a of the Criminal Code (18 U.S.C. 1940 ed. 80), under paragraph 5 of section 301 of Title III of the Second War Powers Act, and under any and all other applicable laws.

(n) *Communications to Department of Agriculture.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Director of Food Distribution, United States Department of Agriculture, Washington, D. C., Ref: FD-39.

(o) *General Preference Order M-57 superseded.* This order supersedes in all respects General Preference Order M-57 [7 F.R. 7398] of the War Production Board except that as to violations of said order or rights accrued, liabilities incurred, or appeals taken under said order prior to the effective date hereof, said general preference order shall be deemed in full force and effect for the purpose of sustaining any proper suit, action or other proceeding with respect to any such violation, right, or liability. Any appeal pending under said general preference order shall be considered under paragraph (1) hereof.

(p) *Territorial extent.* This order applies to all persons in the United States, its Territories and Possessions, and the District of Columbia.

(q) *Effective date.* This order shall be effective on March 24, 1943, as of 12:01 a. m., e. w. t.

(E.O. 9280; 7 F.R. 10179)

Issued this 19th day of March 1943.

[SEAL] PAUL H. APPLEY, Acting Secretary of Agriculture.

Press Release—Immediate:
Monday, March 22, 1943.

Closer control over the Nation's limited supply of tung oil, one of the fast drying oils that help speed war production, was ordered today by the Secretary of Agriculture. Food Distribution Order No. 39, effective March 24, makes it necessary to obtain specific authorization to deliver or accept delivery of tung oil, in addition to the authorization previously required for processing or using tung oil.

The new order, replacing War Production Board Order M-57, applies both to domestically produced and imported oils.

Under the previous WPB regulation no authorization was required to deliver tung oil, or to use 35 pounds or less a month. The new order exempts persons using 40 pounds or less each month, but requires specific authorization by the Director of Food Distribution before deliveries can be made.

Producing tung trees in Mississippi, Florida, Georgia, and Louisiana are the principal source of tung oil, since war and shipping conditions have practically eliminated imports of tung oil from China. Domestic production in 1943 may reach a record, 8 million pounds, but this is relatively small compared with aver-

age imports of over 100 million pounds annually before the war.

As a result of strict control of inventories and use, the Nation has accumulated a limited reserve which is being used, together with current production and imports, only for the most urgent war uses. Tung oil is used in protective coatings for use in military and naval equipment, electrical insulation and for food container linings.

Applications for authorization to process, use, deliver, or accept delivery of tung oil may be made hereafter on WPB Form PD-600 and filed with the Director of Food Distribution, Department of Agriculture, Washington, D. C.

JUL 23 1943

U. S. DEPARTMENT OF AGRICULTURE

FDO 39-1

JUNE 30, 1943

WAR FOOD ADMINISTRATION

[FDO 39-1]

PART 1460—FATS AND OILS

TUNG OIL

Pursuant to the authority vested in me by Food Distribution Order 39, dated March 19, 1943 (8 F.R. 3482), and to effectuate the purposes of such order: *It is hereby ordered*, As follows:

§ 1480.21 *Applications for acceptance of delivery, use, or processing of tung oil.*

(a) Every person required by § 1460.5 (e) (1) of Food Distribution Order 39, to file War Production Board Form PD-600, shall file, in lieu thereof, three copies of Form FDA-478 ("Consumers' Application for Delivery and Use"). Every person filing such form shall at-

tach to the three copies thereof one properly prepared copy of Form FDA-477 ("Suppliers' Authorization to Deliver") for each supplier named on Form FDA-478.

(b) Every producer desiring authorization to deliver a specified maximum quantity of tung oil in any month, pursuant to the provisions of § 1460.5 (d) of Food Distribution Order 39, shall file an application for such authorization on Form FDA-478, on or before the 15th day of the preceding month.

(c) Every producer of tung oil required by § 1460.5 of Food Distribution Order 39, to file War Production Board Form PD-601 shall file, in lieu thereof, one copy of Form FDA-476.

(d) The reporting requirements of this order have been approved by the

Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(e) All reports required hereunder and all requests for report forms shall, unless otherwise directed, be addressed to: Chief, Fats and Oils Branch, Food Distribution Administration, War Food Administration, Washington, D. C., Ref.: FD-39.

(f) This order shall become effective on the 1st day of July, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 39, 8 F.R. 3482)

Issued this 30th day of June 1943.

C. W. KITCHEN,
Acting Director of Food Distribution.

Press Release Immediate:
Thursday July 1, 1943.

The War Food Administration has issued directives requiring the use of new forms in reporting production and applying for allocations in the various fats and oils programs.

The new forms, Food Distribution Administration forms 476, 477, and 478 replace forms PD 271, 481, 600, and 601, formerly used by the War Production Board, and should be used after July 1, in applying for allocations of all oils and reporting production of oiticica, castor, rapeseed (mustard seed), cashew nut shell liquid, sperm and tung oils, subject to Food Distribution orders No. 31, 32,

35, 36, 37, and 39. Change in forms was necessitated by the transfer of fats and oils functions from WPB to the Food Distribution Administration.

Forms FDA 478, entitled "Consumers' Application for Delivery and Use," replaces the PD-600 for commodities subject to these orders. The new form is different from PD-600 in that Table 1 constitutes application for authority to use and Table 2 constitutes application for authority to accept delivery. In filing FDA 478, the applicant is also required to prepare and file a single copy of form 477, entitled "Suppliers' Authorization to Deliver," for each supplier named on form FDA 478.

In each case in which the application for authority to accept delivery is granted, a copy of form FDA 477 will be sent direct to the supplier. The new forms must be used for filing applications prior to July 15, for August allocations.

Producers who are required to report production and deliveries of oiticica, castor, rapeseed, mustard seed, and tung oils will report on form FDA 476.

Supplies of forms FDA 476, 477, and 478 may be obtained from regional offices of the Food Distribution Administration, in New York, Atlanta, Chicago, Des Moines, Dallas, Denver, and San Francisco.

